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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,745	12/24/2003	Shigekazu Yasuoka	SNY-048	9090
20374	7590	09/30/2009		
KUBOVCIK & KUBOVCIK SUITE 1105 1215 SOUTH CLARK STREET ARLINGTON, VA 22202			EXAMINER ROE, JESSIE RANDALL	
			ART UNIT 1793	PAPER NUMBER
			MAIL DATE 09/30/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte*: SHIGEKAZU YASUOKA, JUN ISHIDA, TETSUYUKI  
MURATA, and HIROSHI NAKAMURA

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Application No. 10/743,745  
Technology Center 1700

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Mailed: September 30, 2009

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Before Deborah L. Perry, Supervisory Paralegal Specialist, Review Team.

**ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER**

This application was electronically received by the Board of Patent Appeals and Interferences on September 21, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

APPEAL BRIEF, EVIDENCE APPENDIX

Appellant filed an Appeal Brief on April 20, 2009, in which the Evidence Appendix included “Crystal Structure of Hydrogen Storage Alloys, La-Mg-Ni( $x=3 \sim 4$ ) System” and Fig. 6.2.6. These references were introduced with an Amendment on January 21, 2009. There is no evidence of record that the Examiner considered this reference, as it is not included on a PTO-892 or PTO-1449 form.

Correction is required.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) mail a PTOL-90 indicating the reference included in the Appeal Brief’s Evidence Appendix has been considered; OR
- 2) notify Appellant that the Appeal Brief’s Evidence Appendix is defective and require Appellant to submit a new paper properly citing the evidence; and
- 3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DLP/bar

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